

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

IN RE PHARMACEUTICAL INDUSTRY
AVERAGE WHOLESALE PRICE
LITIGATION

THIS DOCUMENT RELATES TO:

ALL ACTIONS

)
) MDL No. 1456
)

) CIVIL ACTION: 01-CV-12257-PBS
)

) Judge Patti B. Saris
)
)
)

PLAINTIFFS' MOTION FOR LEAVE TO FILE UNDER SEAL

Plaintiffs, by their attorneys, respectfully move this Court for a leave to file (a) Plaintiffs' Memorandum in Support of Motion for Partial Summary Judgment Against All Track 1 Defendants; and (b) Declaration of Steve W. Berman in Support of Motion for Partial Summary Judgment Against All Track 1 Defendants under seal.

Plaintiffs' memorandum and the Declaration of Steve W. Berman includes copies of documents and excerpts from those documents, that have been identified by certain Defendants as "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL" pursuant to the terms of the December 13, 2004 Protective Order. If the documents themselves are not quoted information derived from them is, which under the terms of the Protective Order requires that those portions be sealed. The materials not only quote extensively and/or attach such documents, but also include references to pricing data that Defendants no doubt believe to be highly proprietary in nature. Paragraph 15 of the Protective Order mandates that any document or pleading containing such information be filed under seal. Plaintiffs hereby comply with the terms of the Protective

Order. At this time, Plaintiffs' take no position as to whether the information so designated by Defendants is in fact "CONFIDENTIAL" or HIGHLY CONFIDENTIAL and explicitly reserve their right to challenge such designations in accordance with the terms of the Protective Order. Plaintiffs have no doubt, however, that to comply with the terms of the protective order these materials must be filed under seal.

WHEREFORE, Plaintiffs respectfully request that this Court grant them leave to file Plaintiffs' Memorandum in Support of Motion for Partial Summary Judgment Against All Track 1 Defendants and the Declaration of Steve W. Berman in Support of Motion for Partial Summary Judgment Against All Track 1 Defendants under seal, and all other relief that this Court deems just and proper.

DATED: March 15, 2006

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